

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE**

FUSION ELITE ALL STARS, et al.,

Plaintiffs,

v.

VARSITY BRANDS, LLC, et al.,

Defendants.

**Civ. Action No. 2:20-cv-02600**

JESSICA JONES, et al.,

Plaintiffs,

v.

BAIN CAPITAL PRIVATE EQUITY, et al.

Defendants.

**Civ. Action No. 2:20-cv-02892**

**MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF MOTION TO QUASH OR  
MODIFY SUBPOENA DIRECTED TO MARLENE COTA AND FOR PROTECTIVE  
ORDER**

Come now Defendants Varsity Spirit, LLC (“Varsity”), Varsity Brands, LLC, Varsity Brands Holding Co., Inc., Varsity Spirit Fashions & Supplies, LLC, Bain Capital, LP, and Charlesbank Capital Partners, LLC (collectively, “Defendants”), by and through counsel, pursuant to Federal Rules of Civil Procedure 45 and 26 and Local Rule 7.2(c), and hereby file this motion and supporting memorandum for leave to file a reply brief in support of Defendants’ motion to quash or modify, and for a protective order, regarding a subpoena issued by Plaintiffs to former Varsity employee Marlene Cota.

Defendants filed their motion to quash on December 27, 2021. *See Fusion Elite*, No. 20-cv-02600, ECF No. 178; *Jones*, No. 20-cv-2892., ECF No. 176. Plaintiffs filed a Response in Opposition on January 10, 2021. *See Fusion Elite*, ECF No. 180; *Jones*, ECF No. 179. In the Response, Plaintiffs mischaracterize the relief that Defendants seek and the grounds for that relief. Plaintiffs also incorrectly state that Defendants do not dispute that Varsity provided the documents at issue to Ms. Cota—a fact that Defendants have in fact consistently disputed since Ms. Cota informed Varsity that she had the documents. Finally, the Response includes new arguments regarding Ms. Cota’s participation in a television program on sexual abuse as an alleged basis for her relevance to the parties’ claims and defenses. That assertion warrants a response in light of Defendants’ pending motion to strike the irrelevant and scandalous sexual abuse allegations from the *Fusion Elite* complaint.

For these reasons, Defendants seek leave to file a reply brief of just over five pages in length. A copy of the brief Defendants seek leave to file is attached as Exhibit 1.

Dated: January 18, 2022

Respectfully submitted,

s/ Matthew S. Mulqueen

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**CERTIFICATE OF CONSULTATION**

I hereby certify that on January 17, 2021, I consulted with counsel for Plaintiffs via email regarding the relief sought in this motion. On January 18, 2021, counsel for Plaintiffs responded via email that Plaintiffs opposed the relief sought in this motion.

s/ Matthew S. Mulqueen